

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ROZELL AND LINDA HODGES, ET AL.,

PLAINTIFFS,

VS.

CIVIL ACTION NO. 4:05CV168-P-D

BAYROCK MORTGAGE CORPORATION, ET AL.,

DEFENDANTS.

ORDER

This matter comes before the court upon Defendant Bayrock Mortgage Corporation's Motion to Compel Arbitration and to Dismiss or Stay Proceedings [12-1]. Upon due consideration of the motion – the plaintiffs having filed no response – the court finds as follows, to-wit:

For the reasons discussed in Defendant Bayrock's brief, which the court adopts and incorporates herein, the court finds that the motion to compel should be granted. It is undisputed and evident by the arbitration agreements attached as exhibits to the instant motion that all of the plaintiffs signed separate arbitration agreements in connection with their mortgage loans. The language of the arbitration agreements clearly apply to all of the plaintiffs' claims against Bayrock. It is also readily apparent that there is a nexus between the arbitration agreements and interstate commerce . Therefore, all of the plaintiffs' claims in this action should be compelled to arbitration pursuant to 9 U.S.C. § 2. . What is more, since all of the claims are arbitrable, "retaining jurisdiction and staying the action will serve no purpose" and the plaintiffs' claims against Bayrock should be dismissed without prejudice. *Alford v. Dean Witter Reynolds, Inc.*, 975 Fo.2d 1161, 1164 (5th Cir. 1992) ("The weight of authority clearly supports dismissal of the case when *all* of the issues raised in the district court must be submitted to arbitration.").

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant Bayrock Mortgage Corporation's Motion to Compel Arbitration and to Dismiss or Stay Proceedings [12-1] is hereby **GRANTED**;

(2) All of the plaintiffs' claims against Defendant Bayrock Mortgage Corporation only are **COMPELLED TO ARBITRATION**; accordingly,

(3) All of the plaintiffs' claims against Defendant Bayrock Mortgage Corporation only are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this the 27th day of September, A.D., 2005.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE